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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

FILE: LIN00 244 51828 Office: Nebraska Service Center

Date: MAY 16 2002

IN RE: Petitioner:
Beneficiary

APPLICATION: Petition for Alien Fiancé(e) under Section 101(a)(15)(K) of the
Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(K)

IN BEHALF OF APPLICANT: Self-represented

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the director, Nebraska Service Center, and is before the Associate Commissioner for Examinations on appeal. The appeal will be sustained.

The petitioner is a native and citizen of the United States. The beneficiary is a native and citizen of Russia. The director denied the petition after determining that the petitioner and the beneficiary had not met each other within the two-year period prior of the date the visa petition was filed.

On appeal, the petitioner submits a statement from the Nebraska Commission for the Blind and Visually Impaired in support of his documentation asserting that he is legally blind. The statement indicates that the petitioner is a Blind Vendor and runs his business as a sole entrepreneur. He has a driver who drives his van to pick up and deliver products. The author of the letter states that it would be a hardship for the petitioner to run his business and to hire someone to assist him in his travels overseas. The author further states that the petitioner's income is not such that it would cover the additional costs that would be incurred.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), provides nonimmigrant classification to the fiancé(e) of a U.S. citizen who intends to conclude a valid marriage with that citizen within 90 days after entry. Before approving a petition for this classification, the Service must review the information and evidence in the petition and determine that the parties intend to enter into a bona fide marriage.

Section 214(d) of the Act, 8 U.S.C. 1184(d), provides that the petitioner must establish that he or she and the beneficiary have met in person within two years immediately before the petition is filed.

8 C.F.R. 214.2(k)(2), the petitioner may be exempted from this requirement for a meeting if it is established that compliance would:

- (1) result in extreme hardship to the petitioner;
or
- (2) that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social practice, as where marriages are traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day. In addition to establishing that the required meeting would be a violation of custom or practice, the petitioner must also establish that any and all other aspects of the traditional

arrangements have been or will be met in accordance with the custom or practice.

The burden is on the petitioner to provide satisfactory evidence that extreme hardship would be imposed on him by compliance with the two-year requirement. The documentation submitted by the petitioner on appeal supports and compliments other documentation already in the record and establishes that it would be an extreme hardship for him to travel to Russia. It is concluded that the petitioner has now provided the necessary evidence to establish why the two-year requirement stipulated by law should be waived. Therefore, the appeal will be sustained.

ORDER: The appeal is sustained. The director's decision is withdrawn, and the petition is approved.